

§ 904.102

to reduce its Maximum Contribution Percentage to a rate that will amortize the debt in 30 years at the minimum Loan Interest Rate specified in the ACC for the specific Turnkey III project involved. Further development and operation shall be in accordance with this subpart including use of the form of Homebuyers Ownership Opportunity Agreement set forth in Appendix II.

(3) With respect to developments where Agreements with homebuyers have been signed, the following steps shall be taken:

(i) The ACC shall be amended to include the Special Provisions" set forth in Appendix I; further development and operation of the Project shall be in accordance with this subpart.

(ii) The LHA shall offer all qualified homebuyers in the development a new Homebuyers Ownership Opportunity Agreement as set forth in Appendix II with an amendment to section 16a to refer to "the latest approved Development Cost Budget, or Actual Development Cost Certificate if issued," in lieu of "the Development Cost Budget in effect upon award of the Main Construction Contract or execution of the Contract of Sale," and, if the ACC for the Project has a term of 25 years, an amendment to section 16(b) to refer to a term of 25 years, instead of 30, for the Purchase Price Schedule. Each Purchase Price Schedule shall commence with the first day of the month following the effective date of the initial Agreement. No other modification in the new Agreement may be made. In the event the homebuyer refuses to accept the new Agreement, no modifications may be made in the old Agreement and the matter shall be referred to HUD.

(4) With respect to Projects which were under ACC on the effective date of this subpart, the Total Development Cost Budget shall be revised, if financially feasible, to include the cost of the appraisals which are necessary for computation of the initial purchase prices pursuant to § 904.113. In the event this is not financially feasible, the matter shall be referred to HUD, which may, if necessary, authorize a different method for computation of such initial purchase prices on an equitable basis.

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(5) With respect to all developments which were completed by the effective date of this subpart, the appraisals which are necessary for computation of the initial purchase prices pursuant to § 904.113 shall be made as of the date of completion of the development.

[39 FR 10966, Mar. 22, 1974. Redesignated at 40 FR 15580, Apr. 7, 1975, and 49 FR 6714, Feb. 23, 1984, and amended at 56 FR 922, Jan. 9, 1991]

§ 904.102 Definitions.

(a) The term *common property* means the nondwelling structures and equipment, common areas, community facilities, and in some cases certain component parts of dwelling structures, which are contained in the development: *Provided, however*, That in the case of a development that is organized as a condominium or a planned unit development (PUD), the term *common property* shall have the meaning established by the condominium or PUD documents and the State law pursuant to which the condominium or PUD is organized, under the terms *common areas*, *common facilities*, *common elements*, *common estate*, or other similar terms.

(b) The term *development* means the entire undertaking including all real and personal property, funds and reserves, rights, interests and obligations, and activities related thereto.

(c) The term *EHPA* means the Earned Home Payments Account established and maintained pursuant to § 904.110.

(d) The term *homebuyer* means the member or members of a low-income family who have executed a Homebuyers Ownership Opportunity Agreement with the LHA.

(e) The term *homebuyers association* (HBA) means an organization as defined in § 904.106.

(f) The term *homeowner* means a homebuyer who has acquired title to his home.

(g) The term *homeowners association* means an association comprised of homeowners, including condominium associations, having responsibilities with respect to common property.

(h) The term *LHA* means the local housing authority which acquires or develops a low-rent housing development with financial assistance from HUD, owns the homes until title is

transferred to the homebuyers, and is responsible for the management of the homeownership opportunity program.

(i) The term *NRMR* means the Non-routine Maintenance Reserve established and maintained pursuant to § 904.111.

(j) The term *Project* is used to refer to the development in relation to matters specifically related to the Annual Contributions Contract.

[39 FR 10966, Mar. 22, 1974, as amended at 61 FR 5214, Feb. 9, 1996]

§ 904.103 Development.

(a) *Financial framework.* The LHA shall finance development or acquisition by sale of its notes (bond financing shall not be used) in the amount of the Minimum Development Cost. Payment of the debt service on the notes is assured by the HUD commitment to provide annual contributions.

(b) *Maximum total development cost.* The maximum total development cost stated in the ACC is the maximum amount authorized for development of a project and shall not exceed the amount approved in accordance with § 941.406(a) of this chapter.

(c) *Contractual framework.* There are three basic contracts:

(1) An Annual Contributions Contract containing "Special Provisions For Turnkey III Homeownership Opportunity Project," Form HUD-53010C (see Appendix I);

(2) A Homebuyers Ownership Opportunity Agreement (see Appendix II) which sets forth the respective rights and obligations of the low-income occupants and the LHA, including conditions for achieving homeownership; and

(3) A Recognition Agreement (see Appendix II of Subpart D of this part) between the LHA and the HBA under which the LHA agrees to recognize the HBA as the established representative of the homebuyers.

(d) *Community Participation Committee (CPC).* In the necessary development of citizens' participation in and understanding of the Turnkey III program, the LHA should consider formation and use of a CPC to assist the community and the LHA in the development and support of the Turnkey III program. The CPC shall be a voluntary group

comprised of representatives of the low-income population primarily and may also include representatives of community service organizations.

[39 FR 10966, Mar. 22, 1974. Redesignated at 40 FR 15580, Apr. 7, 1975, and amended at 47 FR 39482, Sept. 8, 1982. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 53 FR 41598, Oct. 24, 1988]

§ 904.104 Eligibility and selection of homebuyers.

(a) *Announcement of availability of housing; fair housing marketing.* (1) The availability of housing under Turnkey III shall be announced to the community at large. Families on the waiting list for LHA conventional rental housing who wish to be considered for Turnkey III must apply specifically for that program (see paragraph (d) of this section).

(2) The LHA shall submit to HUD an Affirmative Fair Housing Marketing Plan and shall otherwise comply with the provisions of the Affirmative Fair Housing Marketing Regulations, 24 CFR part 200, subpart M, as if the LHA were an applicant for participation in an FHA housing program. This Plan shall be submitted with the development program, and no development program may be approved without prior approval of the Plan pursuant to HUD procedures under said Affirmative Fair Housing Marketing Regulations. If the development program has been approved, but the Annual Contributions Contract has not been executed, prior to the effective date of this subpart, an Affirmative Fair Housing Marketing Plan must be approved prior to execution of said contract.

(b) *Eligibility and standards for admission.* (1) Homebuyers shall be lower income families that are determined to be eligible for admission in accordance with the provisions of 24 CFR parts 5 and 913, which prescribe income definitions, income limits, and restrictions concerning citizenship or eligible immigration status. The HUD-approved standards for admission to low-rent housing, including the LHA's established priorities and preferences and the requirements for administration of low-rent housing under Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 78 Stat. 241, 42 U.S.C. 2000d), shall be